IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16666 of 1994

Between:

V. Appaiah Sastry S/o Upendra Rao
Viswateja Residential High School, Rajahmundry,
East Godavari Dist.

..... PETITIONER

AND

1 The District Educational Officer East Godavari Dist. at Kakinada
2 The Secretary & Correspondent Viswateja Residential High School Sreeramnagar, Rajahmundry
3 The Deputy Educational Officer Rajahmundry, E.G. Dist.
4 The Regional Joint Director of School Education Kakinada, E.G. Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, in the nature of Writ of Mandamus declaring the action of the respondents in not paying salary for the period from 12-9-1986 to 22-6-1987 as illegal, improper, unjust, arbitrary and contrary to law and further direct the respondents to grant all consequential benefits to the petitioner

Counsel for the Petitioner:MR.P.GANGAIAH NAIDU

Counsel for the Respondents.: GP FOR EDUCATION

The Court made the following :

THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION NO. 16666 OF 1994

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not paying salary to which the petitioner is entitled to for the period from 12-09-1986 to 22-06-1987 as illegal and arbitrary.

The petitioner was appointed as Record Assistant in Viswateja Residential High School, Sreeramnagar, Rajahmundry by order dated 12.8.1986. It is alleged that the 2nd respondent– Secretary & Correspondent of the School prevented the petitioner from signing in the attendance register from 11-09-1986 for extraneous reasons. The petitioner reported the same to the 1st respondent-District Educational Officer, Kakinada, East Godavari District, who in turn, ratified the appointment of the petitioner vide proceedings dated 21-10-1987 with effect from 12-08-1986. However, for the period from 12.09.1986 to 22.06.1987 during which period the petitioner was allegedly not permitted to sign the attendance register, he was not paid the salary. In those circumstances, the petitioner filed W.P.No.10067 of 1990 challenging the action of the respondents in not paying the salary for the period from 12.9.1986 to 22.6.1987. The said writ petition was disposed of by this Court by order dated 23.7.1990 with a direction to the 1st respondent -District Educational Officer, East Godavari, Kakinada, to consider the representation of the petitioner and to pass appropriate orders, in the light of the Government Memo dated 13.3.1984 upon which the petitioner has relied on, within two weeks from the date of receipt of the order. In pursuance thereof, the 1st respondent- District Educational Officer passed orders dated 5.8.1991 informing the petitioner that since he has not signed in the attendance register during the period in question the salary claimed by him cannot be released. It was also observed that to establish any individual who claims to have attended the duty, the Attendance Register is the only basis and since the attendance register does not contain his signatures, he cannot be paid salary. In the

meanwhile the contempt case filed by the petitioner alleging non-compliance of the order in W.P.No.10067 of 1990, was disposed of permitting the petitioner to prefer an appeal against the order of the 1st respondent dated 05-08-1991. Admittedly, the petitioner preferred an Appeal before the Regional Joint Director of School Education, Kakinada. Strangely, the Appeal was disposed of by order dated 25.8.1994 observing that since the petitioner approached the High Court for redressal of his grievance, which was disposed of directing the District Educational Officer to pass appropriate orders, his appeal does not deserve any consideration. Aggrieved by the same, the present writ petition is filed.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

A Perusal of the order dated 25.8.1994 passed by the Regional Joint Director of School Education shows that obviously the Regional Joint Director of School Education was under a mistaken impression that since there was already a direction by this Court to the District Educational Officer, Kakinada, to consider the claim of the petitioner, there is no further necessity to consider the Appeal.

It is true that the W.P.No.10067/1990 filed by the petitioner was disposed of on 23-07-1990 with a direction to the District Educational Officer, Kakinada, to consider the claim of the petitioner in terms of Government Memo, dated 13-03-1984. In pursuance of the said order in W.P.No. 10067 of 1990, the District Educational Officer, Kakinada, has already passed order dated 05-08-1991 rejecting the claim of the petitioner.

Admittedly against the said order, an Appeal lies to the Regional Joint Director of School Education, Kakinada and the petitioner has availed the said remedy. In the circumstances, the Regional Joint Director of School Education, Kakinada, is bound to consider the appeal on merits and to pass appropriate orders in accordance with law. Rejection of the Appeal filed by the petitioner on the ground that the District Educational Officer, Kakinada was directed in the earlier writ petition

(W.P.No.10067/1990) to pass appropriate orders is erroneous and unjustified.

In the circumstances, the order dated 25.8.1994 passed by the 4th respondent – Regional Joint Director of School Education, Kakinada is set aside and the writ petition is disposed of with a direction to the 4th respondent to consider the Appeal of the petitioner afresh and to pass appropriate orders, in accordance with law, within a period of eight weeks from the date of receipt of this order.

Accordingly, the Writ Petition is disposed of. No costs.

01st July, 2004.

ASSISTANT REGISTRAR

Copy to :

1. The District Educational Officer, Kakinada,East Godavari Dist.
2 The Secretary & Correspondent Viswateja Residential High School Sreeramnagar, Rajahmundry
3 The Deputy Educational Officer Rajahmundry, E.G. Dist.
4 The Regional Joint Director of School Education Kakinada, E.G. Dist.

5. Two C.Cs to G.P. for Education, High Court Buildings,

Hyderabad(OUT)

6. Two C.D. Copies.

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